



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,209	01/16/2002	Daniel M. Humes	YAK 345	5505
23581	7590	08/10/2005		
KOLISCH HARTWELL, P.C. 520 S.W. YAMHILL STREET SUITE 200 PORTLAND, OR 97204			EXAMINER MAI, TRI M	
			ART UNIT 3727	PAPER NUMBER

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/053,209	Applicant(s) HUMES, DANIEL M.	
	Examiner Tri M. Mai	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 18-20, 22 and 23 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16, 18-20, 22 and 23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-16, 18-20, 22 and 23 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. The allowability of claims 1-3, 7, 8, 6, 16, 19, and 20 are withdrawn. This Office Action is made non-final.
2. The specification fails to provide antecedent basis for the first support, second support and the third and fourth support, the first and second ends of the expanse. Please point out what comprises these supports.
3. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The specification defines portion 36 as the expanse. However, it seems claim 9 defines the first and second supports as separate portions from the expanse. This is a double inclusion. Furthermore, it is unclear where is the first and second ends of the expanse in this case.
4. Claims 1-5, 7-9, 12-14, 22, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Lay (3113642). Lay teaches a base 16, a resilient expanse 15, and a rear wall portion 18, and rib 200 connecting an upper portion of the expanse to the an upper portion of the expanse to the rear wall portion allowing compression of the expanse as claimed. In the very least, the ribs are arcuate in the position shown in Fig. 4.

Regarding claim 4, note the spring ribs are arcuate at the connection between wall 15 and ribs, and the upper portion is supported by the spring rib 20, and note the lower portion is stiffened at the intersection between 15 and 16, and note the load rib 21.

Art Unit: 3727

Regarding claim 9, there are two support (one at 18 and the other about 15) connecting expanse to the base as claimed. Furthermore, portion 18 is the base the first support is portion 16, and the second support is portion 19.

Regarding claim 10, the third support 20 extending from the expanse to a center region of the base as claimed.

5. Claims 1-14, 22, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Kinnamon et al. (5131669). Kinamon teaches a base 80, an expanse at 60, a spring rib (rib adjacent 40, fig. 3), a load rib at portion 84 (Fig. 3). With respect to the various stiffened and flexible portions, it is noted that expanse (portions 60+72+82) would have various stiffened and flexible portions. The stiffen portions are at the intersections between the rib and expanse. In this case the intersection of 84 and the expanse would resulted in a stiffened portion. Any portion positioned away from this intersection would inherently more flexible due to the material being resilient (col. 3, ln. 26).

6. Claims 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Reed (3993167). Reed teaches a support member having a base, a resilient expanse, a spring rib at portion 1 disposed under an upper portion of the expanse. The expanse has a lower stiffened portion between chambers 5.

7. Claims 4, 7, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown et al. (3005213). Brown teaches a base, a resilient expanse 10, an arcuate spring rib 28,

8. Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Staller, or in the alternative, over Staller in view of either Santelli, Jr. or Lay. Staller teaches a expanse having first and second end portions a first support and second supports. To the degree it is argued that

Art Unit: 3727

the Staller does not teach the expanse being resilient, either Santelli, Jr. or Lay teaches that it is known in the art to make a choke from resilient material. It would have been obvious to one of ordinary skill in the art to make a choke of Staller from resilient material to provide the desired material for the chock.

9. Claims 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Canning et al. (3001679) or Dean et al. (6385822) in view of Staller (D386145). Either Canning or Dean teaches a rack for carrying a boat, a pair of tower bodies, a cross bar, a pair of support member. Either Canning or Staller meets all claimed limitations except for the supports as claimed. Staller teaches that it is known in the art to having an upper portion and lower portion and a rib configuration including a load rib (the one at the lower end of the expanse) supporting the lower portion of the expanse so that the upper portion is more flexible than the lower portion as claimed. It is noted that the term "portion" is broad. Any portion that is distance from the distal upper end would be more flexible than the distal end portion (due to the presence of the rib connecting the expanse to the base).

Regarding claim 16, the slanted rib is the spring rib as claimed.

Regarding claim 18, the back wall extending generally perpendicular as claimed.

10. Claims 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the either Canning or Dean rejection as set forth above, and further in view of either Santelli, Jr. (6189868) or Lay. To the degree it is argued that the Staller does not teach the expanse being resilient. Either Santelli, Jr. or Lay teaches that it is known in the art to make a choke from resilient material. It would have been obvious to one of ordinary skill in the art to make a choke of Staller from resilient material to provide the desired material for the chock.

Election/Restrictions

11. Restriction to one of the following inventions is required under 35 U.S.C. 121:
- I. Claims 1-14, 22, and 23, drawn to a support member, classified in class 188, subclass 32.
 - II. Claims 15, drawn to a rack for carrying a boat, classified in class 224, subclass 319.

The inventions are distinct, each from the other because of the following reasons:

12. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention has separate utility such as. See MPEP § 806.05(d).
13. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the rack can have other supports. Furthermore, the support can be attached to other means, e.g. a boat as shown in 4895096. The subcombination has separate utility such as wheel chock.

Art Unit: 3727


14. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

15. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tri M. Mai 
Primary Examiner
Art Unit 3727